

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD THOMAS,

Plaintiff,

v.

ANTHONY HEDGPETH, et al.,

Defendants.

Case No.: C 12-3071 CW (PR)

ORDER OF DISMISSAL

Docket no. 27

INTRODUCTION

Plaintiff, a state prisoner incarcerated at California State Prison-Substance Abuse Treatment Facility (CSP), has filed a pro se civil rights action pursuant to 42 U.S.C. § 1983, alleging the violation of his constitutional rights by prison officials and medical staff at Salinas Valley State Prison (SVSP), where he was formerly incarcerated. In his first amended complaint (1AC), Plaintiff alleges that he is mentally ill and because of his mental health needs and inability to live compatibly with other prisoners he was placed on single-cell status in 2005. However, in 2010, prison officials determined that he no longer was entitled to single-cell housing and required that he be housed with a cell-mate. On April 5, 2013, the Court issued an Order of Service finding that, construed liberally, these allegations were

1 sufficient to state cognizable Eighth Amendment claims for  
2 deliberate indifference to Plaintiff's serious medical needs and  
3 safety and a cognizable First Amendment retaliation claim. Doc.  
4 no. 10. The Court found that an Equal Protection claim was not  
5 cognizable and dismissed it without prejudice. Id. Defendants  
6 have filed a motion to dismiss based on res judicata, collateral  
7 estoppel, the Rooker-Feldman doctrine, failure to state a claim  
8 and qualified immunity. Plaintiff filed an opposition, Defendants  
9 filed a reply and Plaintiff filed a "secondary objection" to  
10 Defendants' reply which includes requests for sanctions and  
11 appointment of counsel. Defendants have not objected to  
12 Plaintiff's last filing and the Court considers it in deciding  
13 this motion.<sup>1</sup>

14 For the reasons discussed below, the Court grants the motion  
15 to dismiss based on res judicata and, thus, need not address  
16 Defendants' other grounds for dismissal.

#### 17 BACKGROUND

18 On September 20, 2011, before Plaintiff filed this federal  
19 civil rights action, he filed a petition for a writ of habeas  
20 corpus in the Monterey County Superior Court, In re Edward Thomas  
21 On Habeas Corpus, case number HC 7507. Request for Judicial  
22 Notice (RJN), Ex. A. On March 7, 2012, in a written order, the  
23 superior court denied the petition. RJN, Ex. E. Plaintiff then  
24 filed a petition for a writ of habeas corpus in the California  
25 Court of Appeal, which was summarily denied on May 18, 2012. RJN,

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26 <sup>1</sup> Defendants' two requests for judicial notice pursuant to  
27 Federal Rule of Evidence 201(b)(2) are granted. Doc. nos. 28 and  
28 39.

1 Ex. G. On June 15, 2012, Petitioner filed the instant civil  
2 rights action.

3 I. State Court Habeas Petition

4 In his state court petition, Plaintiff challenged the June  
5 22, 2011 decision made by the SVSP Unit Classification Committee  
6 (UCC) which changed his single-cell housing assignment to double-  
7 cell status. Ex. B at 1.<sup>2</sup> Plaintiff asserted three grounds for  
8 challenging the UCC's decision that he was eligible to be double-  
9 celled: (1) his mental illness placed himself and any potential  
10 cell-mate in imminent danger; (2) he wanted to prevent himself  
11 from being subject to disciplinary action in the event his cell-  
12 mate brought contraband into the cell, which might lead to a  
13 physical confrontation and potential serious physical harm or  
14 fatality; and (3) SVSP failed to follow the procedures set forth  
15 in the Department Operations Manual (DOM) which requires potential  
16 cell-mates to be given the opportunity to speak with each other to  
17 determine if they would be compatible cell-mates prior to being  
18 housed together. RJN, Ex. E. Petitioner identified his inmate  
19 grievance submitted against Defendants, Log No. SVSP 11-00136, in  
20 which he challenged the UCC's June 22, 2010 decision to remove him  
21 from single-cell status. Ex. A at 6. Plaintiff sought a court  
22 order preventing him from a double-cell assignment. Id. at 9.

23 On December 6, 2011, the Monterey County Superior Court ruled  
24 that Plaintiff's third ground for relief failed because he failed  
25 to set forth a factual basis for the claim that the CDCR had  
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27 <sup>2</sup> Page numbers refer to the numbers on the Court's electronic  
28 docketing system.

1 violated procedures set up in the DOM. RJN, Ex. B at 3. Before  
2 it ruled on Plaintiff's first and second claims, the court  
3 requested that the respondent file an informal response addressing  
4 the questions: (1) at any time or at any CDCR institution, has  
5 there been documentation in Plaintiff's central file showing that  
6 he had been victimized by a prior cell-mate; and (2) was this  
7 factor considered by the UCC at the June 22, 2010 hearing? Ex. B  
8 at 3. The court also requested that the respondent provide the  
9 court with a complete copy of the Classification Chrono dated June  
10 15, 2010.<sup>3</sup>

11 Both the respondent and Plaintiff filed informal reply  
12 briefs. Exs. C & D. With his reply, Plaintiff submitted  
13 declarations from two inmates, who each said he had been celled  
14 with Plaintiff for a while, but Plaintiff's psychological  
15 symptoms, such as talking to himself, hallucinating and pacing the  
16 floor at night, made it impossible to continue to be his cell-  
17 mate. Ex. D at 12-16.

18 After review and consideration of the pleadings and  
19 documentation presented by the parties, the Monterey County  
20 Superior Court found that Plaintiff "failed to state a prima facie  
21 case for relief." Ex. E at 4. The court applied both California  
22 and federal authority holding that:

23 A classification decision must be supported by "some  
24 evidence," and the court may intervene only if a prison  
25 official's classification decision is arbitrary, capricious,  
irrational or an abuse of discretion. Under the "some

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26 <sup>3</sup> A "chrono" is an institutional documentation of information  
27 about inmates and their behavior. In re Stoneroad, 215 Cal. App.  
28 4th 596, 606 n.4 (2013) (citing 15 Cal. Code. Regs. § 2000 et  
seq.).

evidence" standard, the requirements of due process are satisfied as long as there is "some basis in fact" for the decision.

Ex. E at 4-5 (citing In re Wilson, 202 Cal. App. 3d 661, 666-67 (2002); Superintendent v. Hill, 472 U.S. 445 (1985)).

The court reviewed the record and found that, in making its decision to approve Plaintiff for double-cell status, the UCC relied on the evidence that Plaintiff had no history of in-cell violence, sexual predatory behavior or victimization. Id. at 5. These were factors that must be considered in determining whether an inmate could be double-celled. Id.

The court also addressed Plaintiff's argument that the UCC had not considered his mental health illness prior to changing him to double-cell status. Id. The court noted that the state regulations only required a review of mental health issues if a recommendation for single-cell status was made by a clinician, that Plaintiff had not alleged that such a request had been made nor had he raised the issue and that, in fact, the Psychiatric Services Unit Institutional Classification Committee had determined that Plaintiff was eligible for double-cell status. Id. The court also noted that the UCC was aware of Plaintiff's mental health issues because his record showed that he had been appointed a staff assistant and was taking psychotropic medication. Id. Based on its review of the record, the court determined that Plaintiff had "failed to show that the committee's decision was arbitrary, capricious, or an abuse of discretion." Id. Accordingly, the court denied the petition. Id. at 6.

## II. Allegations in Federal Civil Rights Complaint

Plaintiff's 1AC names ten Defendants and contains the following allegations against them.

1 When Plaintiff was transferred to SVSP on March 30, 2010,  
2 Acting Facility Captain-Correctional Counselor R. Burgh<sup>4</sup> and  
3 Acting Correctional Counselor D. Garcia kept Plaintiff on single-  
4 cell status due to Plaintiff's mental health issues and his  
5 classification chrono placing him on single-cell status, which he  
6 had since May 19, 2005.

7 However, at a June 22, 2010 UCC hearing, Defendant Burgh and  
8 Correctional Counselor J. Martin removed Plaintiff from his  
9 single-cell status. 1AC at 11. On January 8, 2011, Plaintiff  
10 filed an administrative appeal, Log No. SVSP 11-00136, challenging  
11 the UCC's decision to place him on single-cell status. Id. at 12.  
12 On February 9, 2011, this appeal was denied at the first level of  
13 review by Defendant Burgh and Captain D. Muniz. Id.

14 On February 17, 2011, Plaintiff resubmitted his appeal to the  
15 second level of review. Id. On April 12, 2011, Chief Deputy  
16 Warden A. Solis denied it at the second level. Id. at 13. On  
17 April 14, 2011, Plaintiff resubmitted this appeal to the third  
18 level of review. By this appeal, Warden Hedgpeth, Chief Deputy  
19 Warden L. Trexler, Captain N. Walker and Defendant Burgh were  
20 "made aware" of Plaintiff's concern that double-celling would put  
21 his life and well-being in jeopardy because of his mental health  
22 problems. Id. at 13.

23 On July 14, 2011, Plaintiff's appeal at the director's level  
24 was denied. Id. at 14.

25 On October 19, 2011, Plaintiff was forced to be celled with  
26 inmate William Swanigan. Nine days later Plaintiff had been

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27 <sup>4</sup> R. Burgh was both Acting Facility Captain and Acting  
28 Correctional Counselor.

1 involved in a physical altercation and was re-housed. On December  
2 30, 2011, Plaintiff was forced to be celled with inmate Darrel  
3 Hospedale without first being able to speak with him to determine  
4 if they would be compatible as cell-mates. Id. at 14-15.

5 At some point in time, Plaintiff notified Mental Health  
6 Psychiatric Technician Bonilla about his mental health issues and  
7 double-celling producing a potentially violent situation. Id. at  
8 15. Defendant Bonilla advised Plaintiff that the SVSP mental  
9 health department "no longer makes recommendations for triple CMS  
10 (CCCMS) inmates to be housed 'single celled' . . . and has not  
11 done so since 2005." Id.

12 Plaintiff also makes allegations regarding his gang member  
13 status. On April 22, 2009, Plaintiff filed a 602 appeal  
14 challenging his classification as a gang member which was granted  
15 by Defendants Hedgpeth and Burgh. Id. at 23. As a result, all  
16 gang membership and gang status labels were to be removed from  
17 Plaintiff's Central File. Id. However, even though the appeal  
18 was granted, each Defendant has accused Plaintiff of being a gang  
19 member and they have continued to house him with a cell-mate who  
20 is a gang member or associate, which could place Plaintiff in a  
21 volatile situation. Id.

22 Plaintiff also alleges, "Because of prior litigation and  
23 current litigation against prison staff, the decision to remove  
24 [Plaintiff] from his single cell status was done as a retaliatory  
25 measure to cause Plaintiff injury . . ." Id. at 24.

26 Plaintiff sues Defendants in their individual and official  
27 capacities and seeks injunctive relief and damages. Id. at 30-31.  
28

## DISCUSSION

Defendants argue that litigation of Plaintiff's claims is barred by res judicata (claim preclusion) and litigation of Plaintiff's issues is barred by collateral estoppel (issue preclusion) based on the fact that Plaintiff litigated these same claims and issues in his state habeas proceeding.

Under the Federal Full Faith and Credit Statute, 28 U.S.C. § 1738, federal courts must give a state court judgment the same preclusive effect as the state court judgment would receive by another court of that state. 28 U.S.C. § 1738; Maldonado v. Harris, 370 F.3d 945, 951 (9th Cir. 2004). Section 1738 requires federal courts to apply the rules chosen by the state which issued the judgment to determine whether claim or issue preclusion applies to a second-filed federal case. Noel v. Hall, 341 F.3d 1148, 1166 (9th Cir. 2003). There is no exception to the rules of issue and claim preclusion for federal civil rights actions under 42 U.S.C. § 1983. Clark v. Yosemite Community College Dist., 785 F.2d 781, 788 n.9 (9th Cir. 1986). A § 1983 claim brought in federal court is subject to principles of issue and claim preclusion by a prior state court judgment. Allen v. McCurry, 449 U.S. 90, 97-98 (1980) (issue preclusive effect in federal court of state proceedings is same as that accorded in state's own courts); Silverton v. Dep't of Treasury, 644 F.2d 1341, 1347 (9th Cir. 1981) ("because of the nature of a state habeas proceeding, a decision actually rendered should preclude an identical issue from being relitigated in a subsequent § 1983 action if the state habeas court afforded a full and fair opportunity for the issue to be heard and determined under federal standards"); Clark, 785 F.2d



1 at 786-87 (under res judicata, state judgment bars relitigation of  
2 same causes of action in federal § 1983 action).

3 Under California law, claim preclusion applies when: (I) the  
4 party to be precluded was a party or in privity with a party to  
5 the previous adjudication; (II) the second lawsuit involves the  
6 same "cause of action" as the first; and (III) there was a final  
7 judgment on the merits in the first lawsuit. San Diego Police  
8 Officers' Ass'n v. San Diego City Employees' Ret. Sys., 568 F.3d  
9 725, 734 (9th Cir. 2009). As a result, a "plaintiff cannot avoid  
10 the bar of claim preclusion merely by alleging conduct by the  
11 defendant not alleged in the prior action, or by pleading a new  
12 legal theory." Gonzales v. California Dep't of Corrections, 782  
13 F. Supp. 2d 834, 838 (N.D. Cal. 2011).

14 I. Identity or Privity of Parties

15 For res judicata purposes, if the parties in the second  
16 lawsuit are not the same as in the original lawsuit, privity is  
17 determined based on "whether the non-party is sufficiently close  
18 to the original case to afford application of the principle of  
19 preclusion." People v. Drinkhouse, 4 Cal. App. 3d 931, 937  
20 (1970). It is also defined as "a mutual or successive  
21 relationship to the same rights of property, or to such an  
22 identification in interest of one person with another as to  
23 represent the same legal rights." Citizens for Open Access to  
24 Sand and Tide, Inc. v. Seadrift Ass'n, 60 Cal. App. 4th 1053, 1069  
25 (1998).

26 In both the state habeas proceeding and this federal civil  
27 rights action, Plaintiff alleges that he has wrongfully been  
28 classified as eligible for double-cell status when he should be on

1 single-cell status because of his mental disability. In both  
2 proceedings, Petitioner identified inmate grievance, SVSP log No.  
3 11-00136, as support for his claim. This grievance seeks  
4 reinstatement of his single-cell assignment that was discontinued  
5 at the June 22, 2010 UCC hearing, attended by Defendants Burgh and  
6 Martin, and an order preventing staff from assigning him a cell-  
7 mate due to his mental disability. The grievance also mentions  
8 some of the named Defendants in this action. For instance  
9 Defendants Burgh and Muniz responded to Plaintiff's inmate appeal  
10 of the June 22, 2010 UCC decision at the first level of review and  
11 Defendant Solis responded to the appeal at the second level of  
12 review.

13 Furthermore, even though the respondent in a habeas  
14 proceeding is usually the warden of the petitioner's penal  
15 institution, where a state habeas petition and a federal civil  
16 rights claim challenge the same wrong to the same plaintiff by the  
17 same prison officials, there is privity between the parties. See  
18 Gonzales, 782 F. Supp. 2d at 839. This applies here, where  
19 Plaintiff named Warden A. Hedgpeth as the respondent in his habeas  
20 petition. See RJN, Ex. A.

21 Plaintiff does not argue that privity does not exist between  
22 the defendants in both actions.

23 Thus, the parties involved in both proceedings are either  
24 identical or substantially identical under California law so as to  
25 be in privity with each other for purposes of res judicata.

## 26 II. Same Cause of Action

27 For res judicata purposes, California law defines a "cause of  
28 action" by analyzing the primary right at stake. San Diego Police  
Officers' Ass'n, 568 F.3d at 735. This means that:

1 if two actions involve the same injury to the plaintiff and  
2 the same wrong by the defendant then the same primary right  
3 is at stake even if in the second suit the plaintiff pleads  
different theories of recovery, seeks different forms of  
relief, and/or adds new facts supporting recovery.

4 Id. (quoting Eichman v. Fotomat Corp., 147 Cal. App. 3d 1170  
5 (1983)).

6 The California Supreme Court has defined "cause of action"  
7 and "primary right" as follows:

8 A "cause of action" is comprised of a "primary right" of the  
9 plaintiff, a corresponding "primary duty" of the defendant,  
and a wrongful act by the defendant constituting a breach of  
10 that duty. The most salient characteristic of a primary  
right is that it is indivisible: the violation of a single  
primary right gives rise to but a single cause of action. A  
11 pleading that states the violation of one primary right in  
two causes of action contravenes the rule against "splitting"  
12 a cause of action. . . . The primary right is simply the  
plaintiff's right to be free from the particular injury  
13 suffered. It must therefore be distinguished from the legal  
theory on which liability for that injury is premised.

14 Crowley v. Katleman, 8 Cal. 4th 666, 681 (1994) (emphasis in  
15 original).

16 The primary right claimed in Plaintiff's state petition and  
17 this complaint is the same--it is the constitutional right to be  
18 correctly classified as not being capable of sharing a cell with  
19 another prisoner while housed at SVSP. Plaintiff alleged in both  
20 proceedings that he was improperly given a double-cell assignment  
21 by the UCC committee and that decision places him and any  
22 potential cell-mate in danger of injury or discipline for any  
23 violence that may occur between Plaintiff and the cell-mate. The  
24 corresponding duty on Defendants' part is to classify Plaintiff  
25 correctly so that he and a potential cell-mate will not physically  
26 harm each other. The alleged harm is the potential physical  
27 injury that will result when Plaintiff is housed with an  
28

1 "incompatible" cell-mate and the discipline that will result when  
2 Plaintiff refuses to be housed with an "incompatible" cell-mate.  
3 The fact that Plaintiff submitted the same prisoner grievance and  
4 inmate declarations in support of his claims in both proceedings  
5 supports the finding that he is claiming a violation of the same  
6 right and same injury in both proceedings.

7 Plaintiff argues that the causes of action are different in  
8 the two proceedings because in the state petition he did not  
9 allege that Defendants violated any of his constitutional rights,  
10 including the violation of his First Amendment rights based on  
11 Defendants' retaliation against him.

12 The state habeas court construed Plaintiff's claim as  
13 alleging a due process violation because due process jurisprudence  
14 afforded the best theory for overturning a ruling of the  
15 classification committee. See In re Wilson, 202 Cal. App. 3d 661,  
16 666-67 (1988) (court may intervene in prison classification  
17 decision only if the decision is arbitrary, capricious, irrational  
18 or an abuse of discretion). Citing the United State Supreme Court  
19 case, Superintendent v. Hill, for the proposition that a decision  
20 of the UCC must be supported by some evidence to satisfy due  
21 process, the court found that there was some evidence to support  
22 the UCC's decision that Plaintiff was qualified for double-cell  
23 status and, thus, no due process violation had been committed.

24 Because res judicata bars not only the due process claim that  
25 was litigated, but all the claims that could have been litigated  
26 based on the primary right alleged in the first proceeding,  
27 Plaintiff's Eighth Amendment and First Amendment claims are also  
28 barred. They are based on the violation of the same primary right

1 litigated in the state habeas proceeding--to be classified  
2 correctly as not capable of sharing a cell with another inmate.  
3 See Gonzales, 782 F. Supp. 2d at 841 (res judicata barred not only  
4 due process claim based on improper gang validation litigated in  
5 state habeas proceeding, but all new legal theories and claims  
6 stemming from the same cause of action, such as First Amendment  
7 and Equal Protection claims based on same right to be free from  
8 improper gang validation).

9 In his civil rights case, Plaintiff also alleges that  
10 Defendants are placing him in imminent danger by housing him with  
11 cell-mates who are gang members or disruptive group members.  
12 However, if the cause of action test is satisfied, the same  
13 primary right is at stake, even if in the later suit the plaintiff  
14 pleads different theories of recovery, seeks different forms of  
15 relief and/or adds new facts supporting recovery. See Brodheim v.  
16 Cry, 584 F.3d 1262, 1268 (9th Cir. 2009) (quoting City of Martinez  
17 v. Texaco Trading & Transp., Inc., 353 F.3d 758, 762 (9th Cir.  
18 2003)). The fact that Plaintiff adds new facts in his complaint--  
19 that Defendants are placing him in imminent danger by double-  
20 celling him with dangerous gang members--does not change the  
21 primary right alleged, that the UCC's decision to double-cell him  
22 is placing him in imminent danger of harm by allowing him to be  
23 double-celled with "incompatible" inmates.

### 24 III. Final Judgment on the Merits

25 As mentioned above, a decision actually rendered in a state  
26 habeas proceeding, after a full and fair hearing, precludes the  
27 litigation of the same claims and issues in a federal civil rights  
28 case. See Hawkins v. Risley, 984 F.2d 321, 325 (9th Cir. 1993);

1 Silverton, 644 F.2d at 1347. However, res judicata does not apply  
2 "when the party against whom the earlier decision is asserted did  
3 not have a 'full and fair opportunity' to litigate the claim or  
4 issue . . . Redetermination of issues is warranted if there is  
5 reason to doubt the quality, extensiveness, or fairness of  
6 procedures followed in prior litigation." Kremer v. Chemical  
7 Constr. Corp., 456 U.S. 461, 480-81 & n.22 (1982). Where a  
8 federal court is considering the preclusive effect of a state  
9 court judgment under 28 U.S.C. § 1738, the "state proceedings need  
10 do no more than satisfy the minimum procedural requirements of the  
11 Fourteenth Amendment's Due Process Clause in order to qualify for  
12 the full faith and credit guaranteed by federal law." Id. at 481.

13 Plaintiff argues that the state decision on his habeas  
14 petition was not a final judgment on the merits. First, Plaintiff  
15 argues that it was not a final judgment because he did not  
16 "exhaust the habeas corpus action due to the matter(s) could be  
17 processed all the way up the judicial process to the Ninth Circuit  
18 Court of Appeals [sic]." Opp'n at 2, 9.

19 Plaintiff filed a habeas petition in the California Court of  
20 Appeal, which denied it on May 18, 2012. RJN, Ex. G. Plaintiff  
21 could have filed his petition in the California Supreme Court but  
22 did not do so. California's timeliness rule bars habeas petitions  
23 that are filed after "substantial delay." King v. LaMarque, 464  
24 F.3d 963, 966 (9th Cir. 2006). Although there are no fixed  
25 standards for determining what period of time constitutes  
26 substantial delay, see id., it is likely that any petition  
27 Plaintiff files now would be considered substantially delayed.  
28 Therefore, it is unlikely that the California Supreme Court would  
rule on the merits of Plaintiff's petition. And, although

1 Plaintiff argues that he can appeal his petition to the Ninth  
2 Circuit, Plaintiff may only appeal to the Ninth Circuit a judgment  
3 from a federal district court, not a judgment from the state  
4 courts. Thus, Plaintiff's argument that the superior court's  
5 ruling is not final because he still may appeal lacks merit.

6 Plaintiff argues that he did not have a full and fair  
7 opportunity to litigate his claim in the state court. The Court  
8 finds that he did. After Plaintiff filed his petition in the  
9 state superior court, the court requested an informal response  
10 from the respondent and ordered the respondent to provide the  
11 court with a complete copy of the June 15, 2010 UCC chrono of  
12 Plaintiff's case. The respondent complied and Plaintiff filed an  
13 informal response to the respondent's response. Therefore, when  
14 the superior court rendered its decision, it had before it two  
15 briefs filed by Plaintiff, the respondent's informal response, the  
16 UCC chrono and decision and Plaintiff's administrative grievance.  
17 The state superior court considered the arguments raised in  
18 Plaintiff's habeas petition and informal response and, after  
19 review, found that some evidence existed to support the UCC's  
20 decision to approve Plaintiff for double-cell status. See RJN,  
21 Ex. E. at 3-5. This qualifies as a full and fair opportunity to  
22 litigate the issues as required by Kremer, 456 U.S. at 480-81.

23 Plaintiff next argues the state court decision was not a  
24 final judgment because he was not allowed to argue the case  
25 personally in court and could only submit his arguments on paper.  
26 However, a hearing before the court is not necessary to satisfy  
27 the minimum procedural requirements of the Fourteenth Amendment's  
28 Due Process Clause. As stated by the United States Supreme Court,  
"no single model of procedural fairness, let alone a particular

1 form of procedure is dictated by the Due Process Clause. . . . The  
2 very nature of due process negates any concept of inflexible  
3 procedures universally applicable to every imaginable situation."  
4 Kremer, 456 U.S. at 483. Here, Plaintiff had the opportunity to  
5 file two briefs in support of his petition, to submit evidence  
6 with both briefs and to refute the arguments and evidence  
7 proffered by the respondent. Under the circumstances of a habeas  
8 petition, where the petitioner is incarcerated, a hearing before  
9 the court is not required in order to provide the petitioner with  
10 a full and fair opportunity to present his arguments. Plaintiff  
11 had that opportunity before the state superior court.

12 Next, Plaintiff argues that he did not seek monetary  
13 compensation in his state habeas proceeding, while he does in this  
14 federal civil rights case. Although damages are unavailable in  
15 habeas proceedings, this does not exempt Petitioner's state habeas  
16 case from the reach of res judicata. See City of Los Angeles v.  
17 Superior Court, 85 Cal. App. 3d 143, 151 (1978) (litigant "cannot  
18 avoid impact of rule against splitting causes of action by  
19 choosing for his first foray a tribunal of limited  
20 jurisdiction."). "Res judicata precludes piecemeal litigation by  
21 splitting a single cause of action or relitigation of the same  
22 cause of action on a different legal theory or for different  
23 relief. . . . A predictable doctrine of res judicata benefits both  
24 the parties and the courts because it seeks to curtail multiple  
25 litigation causing vexation and expense to the parties and wasted  
26 effort and expense in judicial administration." Mycogen Corp. v.  
27 Monsanto Co., 28 Cal. 4th 888, 897 (2002) (citations and internal  
28 quotation marks omitted, emphasis in original). Therefore, all  
claims based on the same cause of action must be decided in a



1 single suit; if not brought initially, they may not be raised at a  
2 later date. Id. In Mycogen, the court held that res judicata  
3 barred a plaintiff who prevailed in an action for declaratory  
4 relief and specific performance of a contract from pursuing  
5 damages in a subsequent action for breach of that same contract.  
6 Id. at 904.

7 Based on the foregoing, the denial of Plaintiff's state  
8 habeas decision was a final judgment on the merits.

9 For all the above reasons, Defendants' motion to dismiss the  
10 complaint because it is barred by res judicata is GRANTED. Thus,  
11 the Court need not address Defendants' other arguments for  
12 dismissal based on collateral estoppel, the Rooker-Feldman  
13 doctrine, failure to state a claim and qualified immunity.

14 Given this ruling, Plaintiff's requests for sanctions and  
15 appointment of counsel are denied as moot.

16 CONCLUSION

17 Based on the foregoing, the Court orders as follows:

18 1. Defendants' motion to dismiss based on res judicata is  
19 GRANTED. Doc. no. 27.

20 2. The Clerk of the Court shall enter judgment and close the  
21 file.

22 3. This Order terminates docket number 27.

23 IT IS SO ORDERED.

24  
25 Dated: 1/31/2014

26   
27 CLAUDIA WILKEN  
28 UNITED STATES DISTRICT JUDGE